

SUMMARY ANALYSIS OF AMENDED BILL

Author: Knight Analyst: Jessica Matus Bill Number: AB 304
 Related Bills: See Prior Analysis Telephone: 845-6310 Amended Date: May 25, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Hiring Credit

SUMMARY

This bill would provide a tax credit to employers with 30 or more employees located in California.

RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

SUMMARY OF AMENDMENTS

The May 25, 2011, amendments removed provisions that would have required employers to establish a headquarters in California to qualify for the credit and replaced them with the provisions to allow employers who employ 30 or more employees located in California to qualify for the credit. As a result of the amendments, the "Legal Impact" discussed in the analysis as introduced February 9, 2011 has been resolved and the "This Bill" and "Economic Impact" sections have been revised. The "Implementation Consideration" still applies and is provided below for convenience. The remainder of the analysis as introduced February 9, 2011, still applies.

ANALYSIS**THIS BILL**

For taxable years beginning on or after January 1, 2011, and before January 1, 2015, this bill would provide a "qualified employer" with a tax credit of either: (1) \$3,000 for each qualified employee, or (2) \$5,000 if the wage paid to a qualified employee is greater than or equal to 200 percent of the average wage in the county in which the qualified employee completes at least 50 percent of his or her work.

This bill would define the following:

- "Qualified Employer" means any employer who employs 30 or more employees who are located in California as of the last day of the preceding taxable year.
- "Average Wage" means the average wage of each county, as determined by the Employment Development Department.

Board Position:

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Asst. Legislative Director

Date

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- “Qualified employee” means an employee who was paid qualified wages by the qualified employer for services rendered for not less than an average of 35 hours per week and not less than 1,700 hours per year.
- “Qualified wages” means the amount of wages subject to income tax withholding under the Unemployment Insurance Code.¹

This bill would allow unused credits to be carried over for ten years or until exhausted.

This bill would specify that the credit allowed by this bill would be in lieu of any deduction or credit allowed for the same qualified wages.

This credit would be repealed on December 1, 2015.

IMPLEMENTATION CONCERN

The department has identified the following implementation concern. Department staff is available to work with the author’s office to resolve these and other concerns that may be identified.

The bill fails to define “located in California.” This may be interpreted to mean that employees must reside in California. A requirement that an employee reside in California may be subject to constitutional challenge under the Commerce Clause of the United States Constitution. This challenge could be avoided if the bill instead required that employees be employed in California for the employer to claim the credit and then basing the credit on California wages paid or incurred.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 304 For Taxable Years Beginning On Or After January 1, 2011 Enactment Assumed After June 30, 2011 (\$ in Billions)		
2011-12	2012-13	2013-14
-\$1.2	-\$1.2	-\$1.3

¹ Beginning with Section 13000 of the Unemployment Insurance Code, this section requires withholding state income taxes on wages paid to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state. As a result, this targets the credit towards the payment of wages subject to California tax.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None provided.

Opposition: California Tax Reform Association

LEGISLATIVE STAFF CONTACT

Jessica Matus

Legislative Analyst ,FTB

(916) 845-6310

jessica.matus@ftb.ca.gov

Patrice Gau-Johnson

Asst. Legislative Director, FTB

(916) 845-5521

patrice.gau-johnson@ftb.ca.gov